

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

- v - :

D E C L A R A T I O N

FRANCISCO COLON, : 07 Cr. 620 (NRB)

:

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I, **Francisco Colon**, hereby declare under the penalties of perjury, pursuant to 28 U.S.C. § 1746, that:

1. I am the defendant in this criminal action, and make this Declaration in support of a motion to suppress physical evidence and statements obtained from me in violation of the Fourth Amendment to the United States Constitution.

2. The statements contained in this Declaration are made based on my best recollection of the events described. However, because the purpose of this Declaration is to establish that my rights were violated, I have not included every detail of what occurred.

3. On the night of June 20, 2007, I was walking up Park Avenue in the Bronx, between East 178th Street and East 179th Streets.

4. As I was walking, I bent down to tie my boot. At no time, however, did I urinate in public, as alleged in the Complaint against me.

5. As I was tying my shoe, I heard some police officers call me over.

6. I complied with the officers' demand.

7. Although I had done nothing wrong, the officers patted me down and recovered a gun.

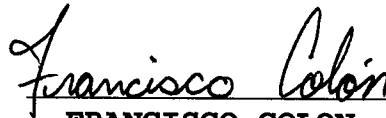
8. The officers then arrested me for possessing the gun.

9. Subsequently, I made oral, written and videotaped statements admitting that I had possessed the gun.

10. My attorney has advised me that, by patting me down without cause, the officers violated my rights under the Fourth Amendment to the United States Constitution and that, consequently, the physical evidence and statements obtained from me on that date should be suppressed.

WHEREFORE, it is respectfully requested that this Court enter an order suppressing the physical evidence and statements obtained from me or, in the alternative, granting a hearing on this motion.

Dated: New York, New York
August 31, 2007


FRANCISCO COLON